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9 CHURCH OF SCIENTOLOGY INTERNATIONAL

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FEB 8 1992

HUB LAW OFFICES

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235 Montgomery Street, Suite 450  
San Francisco, California 94104

10  
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 FOR THE COUNTY OF MARIN

13 CHURCH OF SCIENTOLOGY OF ) Case No. 152229  
INTERNATIONAL, a California )  
14 not-for-profit religious ) NOTICE OF MOTION AND MOTION FOR  
corporation; ) PRELIMINARY INJUNCTION;  
15 ) MEMORANDUM OF POINTS AND  
) AUTHORITIES; DECLARATIONS OF  
16 ) LAWRENCE E. HELLER, LAURIE J.  
) BARTILSON AND LYNN R. FARNY  
17 Plaintiff, ) IN SUPPORT THEREOF  
)  
18 vs. )  
)  
19 GERALD ARMSTRONG and DOES 1 )  
through 25, inclusive, )  
20 Defendants. ) DATE: March 6, 1992  
) TIME: 10:30 a.m.  
21 ) DEPT: 5

22 TO DEFENDANTS AND THEIR COUNSEL OF RECORD:

23 PLEASE TAKE NOTICE that on March 6, 1992 at 10:30 a.m., or as  
24 soon thereafter as the matter may be heard in Department 5 of the  
25 above-entitled Court, plaintiff Church of Scientology International  
26 (the "Church") by this Motion will seek an Order  
27 enjoining defendants Gerald Armstrong ("Armstrong") and all others  
28 acting in concert or participation therewith, or any of them, from

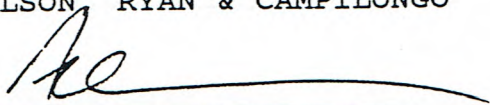
1 violating any and all provisions of the settlement agreement entered  
2 into by the Church and Armstrong in December of 1986, in the form  
3 submitted concurrently herewith.

4 The relief sought by this Motion is based upon this Motion  
5 itself, the Memorandum of Points and Authorities submitted herewith,  
6 the accompanying Declarations of Lynn R. Farny, Lawrence E. Heller  
7 and Laurie J. Bartilson, the Verified Complaint and pleadings,  
8 records and other papers on file in this matter, and such other  
9 evidence as the Court may receive upon the hearing of this Motion.

10  
11 Dated: February 4, 1992

Respectfully submitted,

WILSON, RYAN & CAMPILONGO

12  
13  
14 By:   
Andrew H. Wilson

15 Laurie J. Bartilson  
16 BOWLES & MOXON

17 Attorneys for Plaintiff  
18 CHURCH OF SCIENTOLOGY  
INTERNATIONAL

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20 Defendants. ) DATE: March 6, 1992  
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21  
22 I. PRELIMINARY STATEMENT

23 In December, 1986, plaintiff Church of Scientology  
24 International ("the Church" or "plaintiff") sought to end a period  
25 of long and bitter harassment and attack from former-member Gerald  
26 Armstrong ("Armstrong" or "defendant"). Armstrong, who had been  
27 expelled from the Scientology religion after stealing confidential  
28 documents belonging to the religion's Founder, L. Ron Hubbard,

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1 entered into a campaign of activities, both overt and covert,  
2 intended to divide Church members from the ecclesiastical leaders  
3 of the Church, forge incriminating documents and plant them in  
4 Church files, stage a raid on Church facilities by government  
5 officials on the basis of the forged documents planted in Church  
6 files, get Church members to disaffect and file lawsuits against  
7 the Church on the basis of naked allegations insupportable by any  
8 evidence and, in Armstrong's own words, "to create as much s--- as  
9 possible" for the Church. See, Exhibit 3, Declaration of Lynn R.  
10 Farny in Support ("Farny Decl."), ¶7.

11 Armstrong's bitter and lengthy campaign was ended, or so  
12 plaintiff thought, when he entered into a confidential Settlement  
13 Agreement (the "Agreement") with plaintiff in 1986. The terms of  
14 the Agreement required Armstrong not merely to end his own  
15 litigation against plaintiff, but among other things, also  
16 required Armstrong to refrain from aiding others in litigation, to  
17 return to the Church the documents which he had stolen and all  
18 copies of them, to refrain from discussing with third parties his  
19 experiences with the Scientology faith, and to keep confidential  
20 all terms of the Agreement itself. This amicable settlement was  
21 achieved only after careful and extensive negotiations. See,  
22 Exhibit 4, Declaration of Lawrence E. Heller in Support ("Heller  
23 Decl."), ¶2.

24 Unfortunately, an amicable separation was not to be.  
25 Despite carefully drawn provisions of the Agreement, agreed to by  
26 both Armstrong and his attorney, Armstrong has brazenly embarked  
27 on a second zealous campaign of hatred aimed at the Church. Since  
28 June, 1991, Armstrong has, by his own admissions:

1 - Provided aid to anti-Church litigants Vicki and Richard  
2 Aznaran<sup>1</sup> and Joseph Yanny<sup>2</sup> by giving them declarations which  
3 purport to describe Armstrong's experiences with Scientology, and  
4 which attach copies of documents that Armstrong agreed to keep  
5 confidential, including copies of the Agreement;

6 - Performed paralegal services for Yanny in the Aznarans'  
7 case; and

8 - Performed paralegal services in the Aznarans' case for  
9 the Aznarans' present attorney, Ford Greene, which continues to  
10 the present.

11 Rather than deny these activities, all of which violate the  
12 Agreement and end the peace for which the Church bargained and  
13 paid, Armstrong boasts of them.<sup>3</sup>

14 In order to end Armstrong's unlawful campaign once and for  
15 all, the Church has filed this action and this motion, seeking to

---

16  
17 <sup>1</sup> Vicki Aznaran is the former president of another entity  
18 affiliated with the Scientology faith, Religious Technology  
19 Center. She and her husband Richard, a former employee of the  
20 plaintiff Church, are involved in litigation against plaintiff  
and other Church parties, Vicki Aznaran, et al. v. Church of  
Scientology of California, et al., United States District Court  
for the Central District of California, No. CV 88-1786 JMI (Ex).

21 <sup>2</sup> Joseph Yanny is the former attorney for the Church and is  
22 also a defendant in a pending action, Religious Technology  
Center, Church of Scientology International and Church of  
Scientology of California v. Joseph A. Yanny ("Yanny 2"), LASC  
23 No. BC-033035, in which he has been enjoined from legal  
24 representation of Armstrong against his former clients.

25 <sup>3</sup> The Church's pleas and requests that he honor his Agreement  
26 have proven fruitless; rather, Armstrong, having spent the  
27 proceeds of his earlier hate campaign, seems bent on extorting  
28 still more money from this plaintiff with his outrageous conduct.  
On a daily and continuous basis, Armstrong is working to poison  
proceedings involving current anti-Church litigants, impeding any  
hope of resolving those cases short of a lengthy and expensive  
trial.

1 enjoin Armstrong from committing further and continuous breaches  
2 of his Agreement while the effects of his earlier breaches are  
3 being litigated. The Church requests a preliminary injunction  
4 requiring Armstrong, a Marin County resident, to end his  
5 misconduct, or face contempt of court.<sup>4</sup>

## 6 II. STATEMENT OF FACTS

### 7 A. The Settlement Agreement

8 In December, 1986, the Church entered into the Agreement with  
9 Armstrong. The Agreement provided for a mutual release and waiver  
10 of all claims arising out of a cross-complaint which defendant  
11 Armstrong had filed in the case of Church of Scientology of  
12 California v. Gerald Armstrong, Los Angeles Superior Court No. C  
13 420153.<sup>5</sup> The Agreement included multiple clauses designed to  
14 guarantee that new actions were not spawned or encouraged by the  
15 conclusion of the old one.<sup>6</sup> These clauses included provisions  
16 that Armstrong would not: (1) assist or advise anyone else engaged  
17 in litigation adverse to the interests of the Church; (2) testify  
18 or otherwise participate in any other judicial proceeding adverse  
19 to the Church unless compelled to do so by lawful subpoena; (3)  
20 disclose documents at issue in the case; or (4) disclose to anyone

---

21 <sup>4</sup> See, e.g., Exhibits 1F, 1J and 1K to Request for Judicial  
22 Notice ("Request") and Exhibit 2B to Declaration of Andrew H.  
23 Wilson in Support ("Wilson Decl.").

24 <sup>5</sup> The signatories to the Agreement were Gerald Armstrong and  
25 the Church of Scientology International, by its President, Heber  
26 Jentzsch. [to Wilson Decl.] Mr. Armstrong's signature was  
witnessed by Jo Ann Richardson and Michael Sutter, and the  
Agreement was signed with approval as to form and content by Mr.  
Armstrong's attorney, Michael Flynn. [Id.]

27 <sup>6</sup> See specifically ¶¶ 7(H), 7(G), 10, 7(D), 18(D), 20 of Exhibit  
28 2A to Wilson Decl.



1 the terms of the Agreement itself.<sup>7</sup>

2 The Church had good reason for negotiating these particular  
3 clauses with Armstrong. In addition to his own litigation,  
4 Armstrong fomented significant additional litigation against the  
5 Church and other Churches of Scientology, stirring up enmities  
6 with other former members. Moreover, Armstrong became involved in  
7 plot after clandestine plot to take over or even destroy his  
8 former religion.

9 In November, 1984, for example, Armstrong was plotting  
10 against the Scientology Churches and seeking out staff members in  
11 the Church who would be willing to assist him in overthrowing  
12 Church leadership. The Church obtained information about  
13 Armstrong's plans and, through a police-sanctioned investigation,  
14 provided Armstrong with the "defectors" he sought. On four  
15 separate occasions in November, 1984, Armstrong met with two  
16 individuals that he considered to be defectors, whom he knew as  
17 "Joey" and "Mike." In reality, both "Joey" and "Mike" were loyal  
18 Church members who, with permission from the Los Angeles police,  
19 agreed to have their conversations with Armstrong surreptitiously  
20 videotaped. During the course of these conversations, Armstrong:

21 a. Demanded that "Joey" provide him with copies of  
22 documents published by the Church so that he could forge  
23 documents in the same style. Armstrong wanted "Joey" to  
24 then plant these Armstrong creations in the Church's  
25 files so that Armstrong could tip off the Criminal

---

26 <sup>7</sup> Armstrong also agreed that damages for violations of the  
27 nondisclosure provisions would be a liquidated amount of \$50,000  
28 per disclosure.

1 Investigations Division of the Internal Revenue Service  
2 ("CID"), and the incriminating documents would be found  
3 in a resulting raid;

4 b. Sought to "set up" the defection of a senior  
5 Scientologist by finding a woman to seduce him;

6 c. Told "Joey" all about his conversations with Al  
7 Lipkin, an investigator for the CID, and attempted to  
8 get "Joey" to call Lipkin and give him false information  
9 that would implicate the Church's leaders in the misuse  
10 of donations; and

11 d. Instructed "Mike" on the methods of creating a  
12 lawsuit against the Church leadership based on nothing  
13 at all:

14 ARMSTRONG: They can allege it. They can  
15 allege it. They don't even have -- they can  
allege it.

16 RINDER: So they don't even have to have the  
17 document sitting in front of them and then --

18 ARMSTRONG: F\_\_ing say the organization  
destroys the documents.

19 \* \* \*

20 Where are the -- we don't have to prove a  
21 goddamn thing. We don't have to prove s\_\_t;  
we just have to allege it.

22 (Exhibit 3, Farny Decl., ¶¶4 and 5.)

23 Armstrong received a portion of a total settlement paid to  
24 his attorney, Michael Flynn, in block settlement concerning all of  
25 Mr. Flynn's clients who were in litigation with any Church of  
26 Scientology or related entity. The exact portion of the  
27 settlement which Armstrong received was maintained as confidential  
28 between Mr. Flynn and Armstrong.

1 **B. Armstrong Has Violated the Settlement Agreement**

2 1. **Armstrong Violated The Agreement By Providing**  
3 **Aid To Anti-Church Litigants Vicki And Richard**  
4 **Aznaran Through His Employment By Joseph A.**  
5 **Yanny As A Paralegal**

6 Vicki and Richard Aznaran ("the Aznarans"), are former Church  
7 members who are currently engaged in litigation against, inter  
8 alia, RTC and CSI. In June, 1991, the Aznarans discharged their  
9 attorney, Ford Greene, and retained Joseph A. Yanny to represent  
10 them. [Exs. 1A, 1B, 1C, 1D to Request, Substitutions of  
11 Attorney.]<sup>8</sup> During his time as the Aznarans' counsel, Yanny  
12 hired Gerald Armstrong, in Yanny's own words "as a paralegal to  
13 help [Yanny] on the Aznaran case." [Ex. 1E to Request, Transcript  
14 of Proceedings in Religious Technology Center et al. v. Joseph A.  
15 Yanny, et al., LASC No. BC 033035 ("RTC v. Yanny"), p. 25.] In a  
16 holographic declaration supplied by Armstrong to Yanny, Armstrong  
17 admitted that Yanny called him on July 10, 1991, and asked for  
18 Armstrong's help in Yanny's proposed representation of the  
19 Aznarans. [Ex. 1F to Request, Declaration of Gerald Armstrong of  
20 July 19, 1991, para. 2]; that Armstrong agreed to help Yanny with  
21 the Aznarans' case, and that he would travel to Los Angeles for  
22 that express purpose on July 12, 1991 [Id., para. 3]; and that  
23 Armstrong asked Yanny to pay him \$500 for his services. [Id.,  
24 para. 3.] Armstrong admits that he did travel to Los Angeles, did  
25 stay with Yanny on July 15 and 16, and wrote a declaration for

26 \_\_\_\_\_  
27 <sup>8</sup> Yanny is former counsel to the Church Parties and his  
28 substitution into the case was later vacated by the Court sua  
sponte, the Court noting that Yanny's retention as the Aznarans'  
counsel was "highly prejudicial" to CSI. [Ex. 10 to Request,  
Order of July 24, 1991.]

1 Yanny and the Aznarans. [Id., para. 4.] In a declaration dated  
2 July 31, 1991, as well as in open Court, Yanny admitted that he  
3 has hired Armstrong to act for him as a paralegal in litigation  
4 against the Church and other related entities. [Ex. 1G to  
5 Request, Declaration of Joseph A. Yanny, July 31, 1991, para. 4,  
6 and Ex. 1E to Request, supra.]

7 Armstrong's acceptance of this employment from Yanny to work  
8 on the Aznarans' litigation is in direct violation of Paragraphs  
9 10 and 7(G) of the Agreement; see Exhibit 2A to Wilson Decl..  
10 These paragraphs prohibit Armstrong from providing aid or advice  
11 to anyone engaged in or contemplating litigation which is adverse  
12 to the Church. [Ex. 2A, paras. 7(G), 10.] The Aznarans are  
13 directly engaged in litigation with RTC and CSI, and Armstrong has  
14 provided direct assistance to them by acting as Yanny's paralegal  
15 on their case. There could not be a more clear example of conduct  
16 which violates the letter and intent of the Agreement.

17 2. Armstrong Also Violated the Agreement by  
18 Aiding Yanny in Litigation Against the Church

19 After Yanny entered his appearance in the Aznarans' case, and  
20 indicated to Church counsel that he represented Gerald Armstrong  
21 as well, the Church and two related entities brought suit against  
22 Yanny in Los Angeles Superior Court, in the case of RTC v. Yanny,  
23 supra. In that action, the Church sought and obtained a Temporary  
24 Restraining Order and a Preliminary Injunction against Yanny [Ex.  
25 1H and 1I to Request], which prohibit Yanny from aiding, advising,  
26 or representing, directly or indirectly, the Aznarans or  
27 Armstrong, on any matters relating to the Church. At the  
28 hearings before the Court on the TRO and on the injunction, Yanny

1 filed two declarations prepared and executed by Gerald Armstrong  
2 on July 16, 1991. [Exs. 1J and 1K to Request.] Armstrong also  
3 asserts knowledge concerning settlements, including his own, which  
4 he purportedly gleaned by working as a paralegal for yet another  
5 law firm, Flynn, Joyce and Sheridan [Ex. 1J to Request, paras. 2-  
6 5]. The declarations were offered by Yanny as part of Yanny's  
7 defense, which was ultimately rejected by the Court when it issued  
8 its injunction. [Ex. 1E to Request at 31-34.]

9 Just as in the Aznarans' case, this aid provided by Armstrong  
10 to Yanny, a litigant against the Church, was a direct violation of  
11 paragraphs 10 and 7(G) of the Agreement. Moreover, Armstrong  
12 attached as an exhibit to one of the declarations, Ex. 1J to  
13 Request, a copy of the Agreement, the terms of which he had agreed  
14 to keep confidential. [Ex. 2A to Wilson Decl., para. 18(d).]  
15 This disclosure of the terms of the Agreement is a direct  
16 violation of the non-disclosure agreement.

17 3. Armstrong Violated the Agreement by  
18 Helping Ford Greene With the Aznaran Case

19 Armstrong is brazenly, openly and continually assisting  
20 adverse litigants and bragging about it to the Church's counsel  
21 and staff. After Yanny's substitution into the Aznarans' case was  
22 summarily vacated, Ford Greene was reinstated as the Aznarans'  
23 counsel of record. In a letter to the Church's counsel dated  
24 August 21, 1991, Armstrong admitted that he had been working at  
25 Greene's office with Greene on the Aznarans' case, helping him to  
26 prepare responses to summary judgment motions filed in that case.  
27 [Ex. 2B to Wilson Decl., p. 2.] Both Armstrong and Greene have  
28 freely admitted in sworn declarations that Greene has and is

1 continuing to employ Armstrong as a paralegal in the Aznaran case.

2 Armstrong himself describes these activities as follows:

3 My help to Ford Greene in all of the papers recently  
4 filed has been in proofreading, copying, collating, hole-  
5 punching, stapling, stamping, packaging, labeling, air  
6 freighting, and mailing. Mr. Greene and I have had several  
7 conversations during this period, some of which certainly  
8 concerned the litigation.

9 [Ex. 1L to Request, Declaration of Gerald Armstrong (minus  
10 exhibits) at para. 18.] See also, Ex. 1M to Request, Declaration  
11 of Ford Greene, para. 7. Indeed, Armstrong's presence in Greene's  
12 offices has been continuous throughout December, 1991, and shows  
13 no sign of cessation. [Exhibit 5, Declaration of Laurie J.  
14 Bartilson in Support.]<sup>9</sup>

15 On October 3, 1991, the Church filed a motion in Los Angeles  
16 Superior Court for enforcement of the Settlement Agreement and for  
17 liquidated damages due to Armstrong's breaches of the Agreement.  
18 In Armstrong's papers and at the hearing of the matter, Armstrong  
19 did not deny that he has committed the multiple breaches which  
20 provoked the filing of the motion, and he did not deny that his  
21 activities violated the specific provisions of the Settlement  
22 Agreement cited in the moving papers.<sup>10</sup> Instead, Armstrong

23 <sup>9</sup> In addition to the paralegal services Armstrong claims he  
24 provided the Aznarans, Armstrong also provided the Aznarans with  
25 a declaration, dated August 26, 1991, and filed in that case.  
26 [Ex. 1N to Request.] Armstrong's declaration describes some of  
27 his experiences with and concerning the Church, in direct  
28 violation of paragraphs 7(H), 7(G), and 10 of the Agreement, and  
purports to authenticate copies of documents whose contents he  
agreed, in paragraph 10 of the Agreement, never to reveal. [Id.,  
Exhibits 1 and 2.]

<sup>10</sup> Indeed, Armstrong's response to the motion was in part to boast  
that not only had he committed the violations in question, he had  
never intended to abide by the Agreement at all. In a  
declaration dated November 17, 1991, Armstrong asserts that he  
(continued...)

1 raised with the Court the tired refrain that he had been under  
2 "duress" when he executed the Agreement. Armstrong repeatedly  
3 raised this pretense and his alleged "fear" of the Church before  
4 Judge Breckenridge, the trial judge in the earlier, settled  
5 matter. It is, however, thoroughly belied by the approval of the  
6 Agreement by both the Court and Armstrong's attorney. Moreover,  
7 the credibility of this refrain is shattered by Armstrong's own  
8 words, uttered months after obtaining a defense judgment in the  
9 original Armstrong action based on his spurious claim of being  
10 under "duress" due to his "fear" of the Church. In the November,  
11 1984 videotaped conversations with Joey referred to above, the  
12 following exchange took place while Armstrong was discussing his  
13 plans for destroying the Church:

14 JOEY: Well, you're not hiding!

15 ARMSTRONG: Huh?

16 JOEY: You're not hiding.

17 ARMSTRONG: F--- no! And. . .

18 JOEY: You're not afraid, are you?

19 ARMSTRONG: No! And that's why I'm in a f--king stronger  
20 position than they are!

21  
22 10(...continued)  
23 read all of the clauses at issue here and understood their import  
24 at the time he signed the Agreement, but objected to them to his  
25 own lawyers and told his lawyers he never intended to follow  
26 them. [Ex. 1P, Declaration of Gerald Armstrong, paras. 12-14.]  
27 Armstrong asserts that he "put on a happy face" and went through  
28 the charade of signing the Agreement anyway, so that he could  
have from the settlement the "financial wherewithal" to "get on  
with next phase of [his] life." [Id., para. 17.] Naturally,  
Armstrong never expressed to the Church or its lawyers that he  
had no intention of honoring his Agreement when he signed the  
papers. If he had, the Church would never have agreed to pay him  
anything.

1 JOEY: How's that?

2 ARMSTRONG: Why, I'll bring them to their knees!  
3 Exhibit 3, Farny Decl., para. 6. If anything, Armstrong has  
4 become bolder as time has passed.

5 The Church's showing in support of the motion to enforce the  
6 Settlement Agreement consisted of uncontroverted evidence that  
7 Armstrong had violated paragraphs 10 and 7(G) of the Settlement  
8 Agreement by:

9 1) Providing aid to Richard and Vicki Aznaran ("Aznarans")  
10 in their lawsuit against the plaintiff herein, via employment as a  
11 paralegal by Joseph Yanny working on that case;

12 2) Aiding Yanny in litigation against counter-defendants by  
13 voluntarily filing declarations in his support; and

14 3) Helping Ford Greene, the Aznarans' current lawyer, as a  
15 paralegal on the Aznaran case, and by voluntarily providing  
16 declarations for filing by Greene in the case.

17 Not one word of Armstrong's opposition was devoted to  
18 challenging those proven accusations. In addition, the Court,  
19 with the Honorable Bruce R. Geernhart presiding, did not decide  
20 the case on the merits but rather found it was without  
21 jurisdiction to decide the merits of the case.

22 As demonstrated below, Armstrong has continuously violated  
23 each of the provisions of the Agreement listed above in Footnote  
24 6. While the Church has no interest in pursuing a multiplicity of  
25 suits, Armstrong's own conduct demonstrates not an isolated  
26 incident, but an ongoing campaign, no different from his earlier  
27 campaign of hatred and harassment. Therefore, the Church seeks a  
28 preliminary injunction pending trial of this matter. The



1 irreparable injury to plaintiff and the inadequacy of any other  
2 remedy mandates that the Court grant the Order requested.

3 **III. ARGUMENT**

4 **A. An Injunction May Be Granted To Prevent The Breach Of A**  
5 **Contract The Performance Of Which Would Be Specifically**  
6 **Enforced**

7 C.C.P. § 526 empowers the court to grant an injunction to  
8 prevent a breach of a contract if the contract is one which may be  
9 specifically enforced. C.C.P. § 526; see also, Steinmeyer v.  
10 Warner Consolidated Corp. (1974) 42 Cal.App.3d 515, 518, 116  
11 Cal.Rptr. 57, 60 ("An injunction cannot be granted to prevent  
12 breach of a contract which is not specifically enforceable.");  
13 Southern Christian Leadership Conference of Greater Los Angeles v.  
14 Al Malaikah Auditorium Co. (1991) 230 Cal.App.3d 207, 281  
15 Cal.Rptr. 216. The Agreement at issue is one which may be  
16 specifically enforced by this Court as the contract is  
17 sufficiently definite and certain in its terms, it is just and  
18 reasonable, the plaintiff has performed its side of the bargain,  
19 Armstrong has breached the contract, the Agreement was supported  
20 by adequate consideration, and the Church's remedy at law is  
21 inadequate. Taramind Lithography Workshop, Inc. v. Sanders (1983)  
22 143 Cal.App.3d. 571, 575, 193 Cal.Rptr. 409, 410.

23 Further, while the Agreement contains a liquidated damages  
24 provision, it is a well-settled statutory principle that a  
25 contract providing for liquidated damages does not prevent the  
26 contract from being specifically enforceable. Civil Code § 3389.  
27 Accordingly, the Court is empowered to grant a preliminary  
28 injunction to enjoin Armstrong from further breaching his  
Agreement.

1 B. Preservation of The Status Quo And Prevention of Irreparable  
2 Injury Requires The Court to Grant Plaintiff's Application

3 While C.C.P. § 526(5) deters the granting of injunctions to  
4 prevent the breach of a contract "the performance of which would  
5 not be specifically enforced," the Settlement Agreement at issue  
6 herein is patently specifically enforceable. Indeed, the former  
7 Mother Church of the Scientology religion, the Church of  
8 Scientology of California ("CSC"), has already successfully  
9 obtained injunctions and specific performance of settlement  
10 agreements containing similar provisions.

11 In Wakefield v. Church of Scientology of California (11th  
12 Cir. 1991) \_\_\_ F.2d \_\_ (Slip Op., Exhibit 1R to Request), CSC  
13 sought successfully to specifically enforce a settlement agreement  
14 containing terms substantially similar to those which Armstrong  
15 has violated here. CSC moved to enforce the provisions of the  
16 settlement agreement, and the district court ordered hearings  
17 before the magistrate judge. Id. The magistrate judge concluded  
18 that Wakefield had violated the agreement. The district court  
19 adopted the magistrate judge's findings, and issued a preliminary  
20 and permanent injunction prohibiting Wakefield from violating the  
21 agreement. Id. When Wakefield violated the injunction, again  
22 making media appearances, CSC sought an order to show cause why  
23 Wakefield should not be held in contempt. At an in camera  
24 proceeding, the magistrate judge found that Wakefield had  
25 willfully violated the injunction, and recommended that the case  
26 be referred to the United States Attorney's office for criminal  
27 contempt proceedings. Id. at 4628.

28 Although the district court's issuance of the injunction in

1 Wakefield was not at issue in the Eleventh Circuit proceedings,  
2 the Eleventh Circuit described in its opinion, "Wakefield's  
3 constant disregard and misuse of the judicial process," suggesting  
4 approval of the district court's actions. Id. at 4630.

5 Similarly, in McLean v. Church of Scientology of California  
6 (11th Cir. 1991) \_\_ F.2d \_\_ No. 89-3505 [Ex. 1P], plaintiff McLean  
7 also entered into a settlement agreement containing  
8 confidentiality provisions preventing her from discussing the  
9 litigation with anyone outside her immediate family. Id. at 2.  
10 By her own testimony, plaintiff admitted to reacquiring certain  
11 documents and using them to "counsel" Church members. She further  
12 admitted to discussing certain aspects of the suit with people  
13 outside her immediate family. Id. at 3. As a result, the  
14 appellate court affirmed the district court order permanently  
15 enjoining McLean from disclosing any information about her lawsuit  
16 and the resulting settlement agreement entered into between the  
17 parties. Id. at 6.

18 Just as the district courts in Wakefield and McLean found it  
19 necessary to issue an injunction to enforce the agreement of the  
20 parties, so must the Court herein issue a preliminary injunction  
21 to enjoin Armstrong from further breaches. The status quo will be  
22 maintained and irreparable injury will be prevented only by  
23 granting the Church's motion for preliminary injunction and by  
24 halting the activities of Armstrong.

25 1. The Status Quo Will Be Maintained  
26 Only By Granting Plaintiff's Motion

27 The status quo sought to be maintained by the Church is the  
28 achievement by both sides of the benefits of the Agreement -- the

1 status quo which existed when, in December 1986, the Church and  
2 Armstrong were fully performing their obligations under the  
3 Agreement. By repeatedly violating the Agreement, Armstrong has  
4 destroyed the peace for which the Church lawfully bargained.  
5 Therefore, the Church seeks an order that prevents Armstrong from  
6 further harming the Church and related entities, and his  
7 continuing breach of the Settlement Agreement. Absent the order  
8 the Church seeks, the damage and corruption caused by Armstrong's  
9 outright and continuing breach of the Agreement will spread even  
10 further than it already has.

11 The fact that Armstrong intends to continue his  
12 transgressions and damage the Church could not be any plainer.  
13 Indeed, Armstrong has already made it overwhelmingly clear that he  
14 has deliberately breached the Agreement by his own actions in  
15 aiding Yanny and Ford Greene in litigation adverse to the Church  
16 and in his own statements made in his declarations filed in the  
17 Aznaran case. [Ex. 1L to Request, Declaration of Gerald Armstrong  
18 (minus exhibits) at para. 18.] [See also, Ex. 1M to Request,  
19 Declaration of Ford Greene, para. 7.] Therefore, the Church  
20 requests that the Court compel Armstrong to cease assisting  
21 parties with interests adverse to the Church and to abide by the  
22 terms of the Agreement.

23 2. The Church Will Be Irreparably Harmed  
24 Absent the Issuance of an Injunction

25 Despite repeated demands by the Church that he conduct  
26 himself in accordance with all of the provisions of the Agreement,  
27 Armstrong has continued to violate those provisions which were  
28 specifically requested by the Church to ensure that peace was

1 truly and finally obtained by the settlement. Not only is  
2 Armstrong assisting adversaries of the Church, he is doing so to  
3 foster and perpetuate relentless litigation against the Church to  
4 serve his own ends. Armstrong's conduct is continuous, oppressive  
5 and malicious and has been undertaken for the express purpose of  
6 injuring plaintiff. Only an injunction pending trial has any hope  
7 of stopping Armstrong from waging his malicious, relentless and  
8 senseless war.

9 C.C.P. § 526 provides that an injunction can be granted when  
10 it appears by complaint or affidavit that the commission of some  
11 act during the continuance of the action would produce great or  
12 irreparable injury to a party to the action (subdivision 2) or  
13 when it appears that a party to the action is doing, or  
14 threatening to do, some act in violation of the rights of another  
15 respecting the subject of the action and tending to render the  
16 judgment ineffectual (subdivision 3). Here, an injunction is  
17 needed to prevent Armstrong from continuously breaching the  
18 Agreement and fomenting litigation against the Church while the  
19 Church awaits trial and judgment on the merits. Although some of  
20 Armstrong's breaches are subject to a liquidated damages clause,  
21 others, including the continual violations which he is engaging in  
22 through his employment by Ford Greene, are not. It is these  
23 continual violations, which no monetary award can remedy, which  
24 the Church seeks to enjoin.<sup>11</sup>

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25 <sup>11</sup> No remedy may be available to the Churches in the form of  
26 liquidated damages in any case. Armstrong has asserted by  
27 declaration that he is insolvent, saying,

28 "I have attempted to obtain an attorney to represent me  
(continued...)

1 C. A Balancing Of The Equities Requires The Court To Grant  
2 Plaintiff's Motion

3 In determining whether to grant injunctive relief, the Court  
4 must balance the equities before it and exercise its discretion in  
5 favor of the party most likely to be injured. Robbins v. Superior  
6 Court (1985) 38 Cal.3d 199, 205, 211 Cal.Rptr. 398, 402. In  
7 balancing the equities, the Court considers two interrelated  
8 factors: (1) the likelihood that plaintiff will prevail on the  
9 merits; and (2) the interim harm that plaintiff is likely to  
10 suffer if the injunction is denied as compared to the harm that  
11 defendants are likely to suffer if the injunction is granted.  
12 Id., at 206.

13 1. Plaintiff Is Likely To Prevail On The Merits

14 It is clear that the Church is likely to succeed on the  
15 merits. The Church has submitted an overwhelming factual showing,  
16 which provides thorough detail of Armstrong's willful injurious  
17 conduct and overt violations of the Agreement. The Verified  
18 Complaint and the Declarations of Lawrence E. Heller, Exhibit 4,  
19 and Laurie J. Bartilson, Exhibit 5, supply only a portion of the  
20 facts for the Church's likelihood of success on the merits. In  
21 addition, Armstrong's own statements, made in declarations filed

22 <sup>11</sup>(...continued)

23 specifically in the motion to enforce now before the court,  
24 but have so far been unsuccessful. I do not have the  
25 wherewithal to retain any attorney who would require a fee  
26 to defend me." [Ex. 1Q to Request]

27 Armstrong's asserted insolvency made the guarantee of liquidated  
28 damages an empty promise, and renders the Churches' damage, even  
for these breaches, irremediable. West Coast Construction  
Company v. Oceano Sanitary District (1971) 17 Cal.App.3d 693, 95  
Cal.Rptr. 169.

1 in the Aznaran case as well as his own conduct, form the best  
2 evidence that he has breached and will continue to breach the  
3 Agreement, until this Court enjoins his violative conduct.

4 In addition, on December 3, 1991, the Church filed a motion  
5 in Los Angeles Superior Court for enforcement of the Settlement  
6 Agreement and for liquidated damages due to Armstrong's breaches  
7 of the Agreement. In Armstrong's opposing papers and at the  
8 hearing of the matter, Armstrong did not deny that he has  
9 committed the multiple breaches which provoked the filing of the  
10 motion, and he did not deny that his activities violated the  
11 specific provisions of the Settlement Agreement cited in the  
12 moving papers. Indeed, the motion failed only because the Court  
13 determined that it lacked jurisdiction, since the case itself had  
14 already been settled. With a new action now before the Court, an  
15 injunction should and must issue to preserve the Church's rights  
16 pending trial.

17 2. The Interim Harm That Plaintiff Will Suffer  
18 Absent An Injunction Exceeds Any Harm to  
19 Armstrong If Injunctive Relief Is Granted

20 Armstrong has no equities whatsoever in this action. No one  
21 has any right to continue to violate a settlement agreement.  
22 Armstrong's only "injury" if he is enjoined is that he will not be  
23 able to violate the Agreement in the future. On the other hand,  
24 the harm that will be suffered by the Church absent injunctive  
25 relief is the irreparable harm of being victimized by Armstrong's  
26 violations, while others with interests adverse to the Church  
27 benefit in legal proceedings from an unfettered flow of breached  
28 obligations, wrongful disclosures and legal infidelity.

Thus, the balancing of the equities unquestionably weighs in

1 favor of the Church.


2 IV. CONCLUSION

3 In December, 1986, the Church bought an expensive peace from  
4 Armstrong. Its members thought, and reasonably, that the  
5 negotiated peace was desired by both sides, and permanent, its  
6 terms both clear and fair. Armstrong, his funds allegedly gone,  
7 has embarked on a campaign of deliberate breaches reminiscent of  
8 the very conduct plaintiff sought to end, in an obvious effort to  
9 convince the Church that it must pay for its peace in five-year  
10 installments. Such an agreement was neither contemplated nor  
11 made. By providing aid, declarations, and information which he  
12 agreed to keep confidential directly to the Church litigation  
13 adversaries, Armstrong has repeatedly, deliberately and  
14 continuously breached the Agreement which he signed, and under the  
15 auspices of which he accepted a substantial settlement amount.  
16 Because Armstrong refuses to stop his continuous contempt for his  
17 own agreements, this Court must, on the uncontroverted  
18 evidence, much of it from Armstrong's own lips, enjoin him from  
19 further breaching his Agreement while this action is pending.

20 Dated: February 4, 1992.

Respectfully submitted,

21 WILSON, RYAN & CAMPILONGO

22   
23 By: \_\_\_\_\_  
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28 INTERNATIONAL